



March 2, 2020

Secretary Alex Azar
 Department of Health and Human Services
 Hubert H. Humphrey Building
 200 Independence Avenue SW
 Washington, DC 20201

Re: Comments on Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021; CMS-9916-P (RIN 0938-AT98)

Dear Secretary Azar:

As directors and commissioners representing 15 state-based health insurance marketplaces (SBM), we submit for your consideration the following comments in response to the recently proposed Notice of Benefit and Payment Parameters for 2021. It is our core mission to ensure our customers have access to a choice of high-quality, affordable health insurance products sold through a competitive and stable insurance market. As SBMs, we have taken a tailored approach to serve the unique populations of each our states. Here, we come together to call attention to our shared concerns about the proposed regulation. We further believe that these concerns are relevant and should extend to states served by the federally facilitated marketplace (FFM). These comments are intended to supplement any individual comments submitted by our marketplaces.

Automatic re-enrollment at renewal is critical to maintaining continuity of coverage for health care consumers and stability for health insurance markets.

The U.S. Department of Health and Human Services (HHS) has sought comment on the impact of modifying the automatic re-enrollment process such that enrollees would lose all or some of their federal tax credits if 1) the enrollee had been enrolled in a plan for which they paid \$0 in monthly premiums (after tax credits); and 2) the person automatically re-enrolls in the same coverage. HHS also asserted its belief that federal tax credits make consumers less sensitive to price changes, and so less likely to behave as other consumers in a market.

Automatic re-enrollment is standard industry practice including for employer-sponsored health insurance and Medicare. It promotes stability by enabling consumers to maintain their current

insurance coverage year-over-year, providing greater consistency and certainty of consumer enrollment, and therefore more stable risk pools.

The proposed policy would cause considerable confusion over automatic reenrollment processes and disrupt markets by deterring some consumers from enrolling or renewing in health insurance coverage. Stable enrollment and retention are critical factors that health insurers take into consideration when deciding whether or not to offer coverage in a market. Policies that prohibit maximum enrollment and retention may lead insurers to raise premium rates or to consider withdrawing from a state's insurance markets.

Changes to automatic reenrollment policies would place significant administrative burden on insurers and health insurance marketplaces.

An alteration of automatic reenrollment policies could require health insurance marketplaces and insurance carriers to implement major operational changes including updates to eligibility systems, increased resources toward service centers and appeals processing services, and investment in consumer outreach, enrollment assistance, and marketing to educate consumers about the enrollment changes. These changes will add administrative costs and strain on marketplace and insurer resources, diverting resources away from other strategies that may serve to lower premiums or improve overall consumer experience.

Marketplace consumers are active shoppers and should not be financially penalized for opting to maintaining enrollment in their current insurance plan

The majority of consumers who enroll in coverage through the health insurance marketplaces are active shoppers. In 2019, over 60 percent of health insurance marketplace re-enrollees were active shoppers, meaning those consumers took action to shop for and select a health insurance plan for the 2019 plan year.¹ The marketplaces provide ample opportunity for consumers to browse and select from new coverage options, taking action during each enrollment season to encourage active shopping among their consumers to ensure that consumers are seeking out the best coverage option for them and their families. Some strategies include directed outreach campaigns to increase awareness about new coverage options, institution of window-shopping periods during which consumers can browse available options in advance of the open enrollment season, and use of various consumer decision support tools to ease the shopping experience.

Revoking tax credits from consumers who consciously choose not to actively re-enroll in coverage puts low-to-middle income families at severe financial risk, potentially forcing them to either pay high monthly premiums or to terminate their insurance coverage.

¹ Active re-enrollees as reported through The Centers for Medicare and Medicaid Services 2019 Marketplace Open Enrollment Period Public Use File. Data available at: https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Marketplace-Products/2019_Open_Enrollment

Thank you for the opportunity to provide comment, and we look forward to additional opportunities to work with you as you pursue strategies to promote value, stability, and integrity of health insurance markets. We would be pleased to provide you with any data or information that may be helpful to you in finalization of this rule.

Sincerely,



Marlene Caride
Commissioner
New Jersey Department of
Banking and Insurance



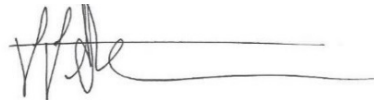
Nathan Clark
Chief Executive Officer
MNSure



Michele Eberle
Executive Director
Maryland Health Benefit
Exchange



Chiqui Flowers
Administrator
Oregon Health Insurance
Marketplace



Louis Gutierrez
Executive Director
Massachusetts Health
Connector Authority



Mila Kofman
Executive Director
DC Health Benefit
Exchange Authority



Pat Kelly
Executive Director
Your Health Idaho



Heather Korbolic
Executive Director
Nevada Health Link



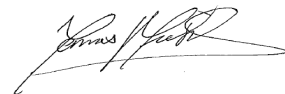
Lindsay Lang
Director
HealthSource RI



Peter V. Lee
Executive Director
Covered California



Pam MacEwan
Chief Executive Officer
Washington Health
Benefit Exchange



James Michel
Chief Executive Officer
Access Health CT



Kevin Patterson
Chief Executive Officer
Connect for Health Colorado



Adaline Stumolo
Director
Department of
Vermont Health Access



Zachary W. Sherman
Executive Director
Pennsylvania Health Insurance
Exchange Authority